



PHC
IFW

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: John D. Lundberg

Application No.: 10/782,428

Art Unit: 2854

Filed: February 18, 2004

Examiner: Minh H. Chau (/f C. H. Nolan)

Title: "Rotary Engraving Apparatus"

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of N/A (identify type of reply):

- ☐ has been filed previously on _____
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ N/A.

- ☐ has been paid previously on _____
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

03/14/2006 MGE BREM1 00000035 10782428

01 FC:2453

750.00 dp
\$750

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

Ted M. Anthony

Typed or printed name

600 Jefferson Street, Suite 1600

Address

Lafayette, Louisiana 70501

Address

March 8, 2006

Date

38,816

Registration Number, if applicable

337.262.9000

Telephone Number

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

March 8, 2006

Date



Signature

Ted M. Anthony

Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

5

Applicant: Lundberg, John D.

Serial No.: 10/782,428

10

Art Unit: 2854

Filed: February 18, 2004

15

Examiner: Minh H. Chau (previously Charles H. Nolan)

For: "Rotary Engraving Apparatus"

20

**STATEMENT CONTESTING ABANDONMENT AND ESTABLISHING
UNINTENTIONAL DELAY**

Applicant originally filed the above-referenced application on February 18, 2004.

25

Applicant subsequently responded to the First Office Action in this matter on May 23, 2005.

Applicant received no other correspondence or communication from the U.S. Patent & Trademark Office ("USPTO") until Applicant received a Notice of Abandonment dated December 29, 2005, a copy of which is attached hereto as **Exhibit "A."** Although the subject Notice of Abandonment references some type of communication dated June 6, 2005, Applicant has never received such communication.

30

Applicant respectfully asserts that abandonment of the subject application is improper.

After filing its Response to First Office Action on May 23, 2005, Applicant has not received any additional correspondence or other communication from the USPTO. At the time that the

enclosed Notice of Abandonment was received, undersigned counsel for Applicant fully believed that the matter was in good standing and pending with the Examiner. Receipt of the Notice of Abandonment was a complete surprise to undersigned counsel and Applicant.

Following receipt of the Notice of Abandonment, undersigned counsel undertook an extensive search of all files related to this matter and other matters being handled on behalf of Applicant. Part of this search involved retrieving certain file materials from closed storage, which added to the delay associated with the present filing. As a result of this detailed search, undersigned counsel has not located any correspondence or other communication from the USPTO dated June 6, 2005 or otherwise related to this matter.

In summary, Applicant asserts that abandonment of the subject application was improper and not warranted under the circumstances. Applicant never received the correspondence that allegedly gave rise to the subject abandonment. Applicant, through undersigned counsel, hereby avers and represents that it has never received the June 6, 2005 communication from the USPTO referenced in the attached Notice of Abandonment, or any other similar communication in this matter.

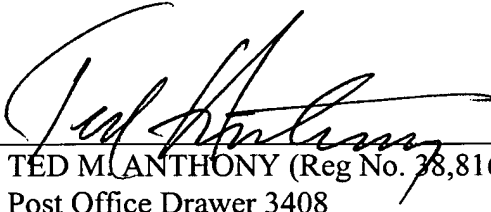
Applicant hereby encloses a check in the amount of **\$750.00** as the required filing fee for this Petition. Applicant respectfully asserts that, under the circumstances, this matter should never have been abandoned. Accordingly, Applicant respectfully requests a **waiver** of this fee in this case. In the event that it is determined that abandonment was in fact proper, then Applicant respectfully represents that such abandonment was completely unintentional.

Applicant's representative, Ted M. Anthony, can be reached by telephone at (337) 262-9000 or facsimile at (337) 262-9001.

Respectfully submitted:

PERRET DOISE, APLC

Date: March 8, 2006

By: 
TED M. ANTHONY (Reg No. 38,816)
Post Office Drawer 3408
Lafayette, LA 70502
Telephone: (337) 262-9000

F:\DATA\Tma\2553.1Xenotech.Rotary\statement.petition.wpd



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,428	02/18/2004	John D. Lundberg		6703

7590
Ted M. Anthony
Perret Doise
Suite 1200
600 Jefferson Street
Lafayette, LA 70501

12/29/2005



EXAMINER

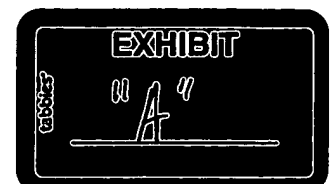
CHAU, MINH H

ART UNIT PAPER NUMBER

2854

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.





AK

Notice of Abandonment

Application No.

10/782,428

Examiner

Minh H. Chau

Applicant(s)

LUNDBERG ET AL.

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 06 June 2005.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

MINH CHAU
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

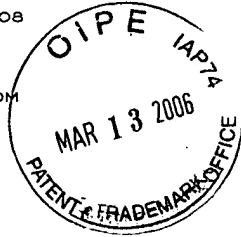
PERRET DOISE

A PROFESSIONAL LAW CORPORATION

MAILING ADDRESS:
P. O. DRAWER 3408
LAFAYETTE, LOUISIANA 70502-3408

TED M. ANTHONY
TANTHONY@PERRETDOISE.COM

SUITE 1600, FIRST NATIONAL BANK TOWERS
600 JEFFERSON STREET
LAFAYETTE, LOUISIANA 70501
TELEPHONE (337) 262-9000
FACSIMILE (337) 262-9001



OUR FILE NUMBER:
2553.1

March 8, 2006

VIA FACSIMILE (571) 273-8300
AND FIRST CLASS MAIL

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: "Rotary Engraving Apparatus"
Applicant: Lundberg, John D.
Application No.: 10/782,428
Examiner: Minh H. Chau (previously Charles H. Nolan)

Dear Commissioner:

Enclosed in connection with the above referenced application are the following:

1. Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b);
2. Statement Contesting Abandonment and Establishing Unintentional Delay, along with Exhibit "A";
3. Check in the amount of \$750.00 for required fees; and
4. Self-addressed, stamped postcard which we would appreciate your date stamping and returning to our attention upon receipt.

Thank you very much for your assistance. Should you have any questions, please do not hesitate to contact me.

Very truly yours,


TED M. ANTHONY

Reg. No. 38,816

TMA/jh
Enclosures

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

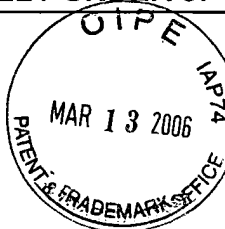
Docket Number (Optional)

First named inventor: John D. Lundberg

Application No.: 10/782,428

Filed: February 18, 2004

Title: "Rotary Engraving Apparatus"



Art Unit: 2854

Examiner: Minh H. Chau (f/ C. H. Nolan)

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

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Signature

March 8, 2006
Date

Ted M. Anthony
Typed or printed name

38,816
Registration Number, if applicable

600 Jefferson Street, Suite 1600
Address

337.262.9000
Telephone Number

Lafayette, Louisiana 70501
Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____


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Signature
Ted M. Anthony

Typed or printed name of person signing certificate



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In re the Application of:

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Applicant: Lundberg, John D.

Serial No.: 10/782,428

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Art Unit: 2854

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Respectfully submitted:

PERRET DOISE, APLC

Date: March 8, 2006

By: 

TED M. ANTHONY (Reg No. 38,816)
Post Office Drawer 3408
Lafayette, LA 70502
Telephone: (337) 262-9000

F:\DATA\Tma\2553.1Xenotech.Rotary\statement.petition.wpd

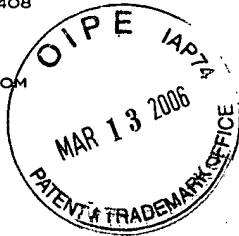
PERRET DOISE
A PROFESSIONAL LAW CORPORATION

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TED M. ANTHONY
TANTHONY@PERRETDOISE.COM

SUITE 1600, FIRST NATIONAL BANK TOWERS
600 JEFFERSON STREET
LAFAYETTE, LOUISIANA 70501
TELEPHONE (337) 262-9000
FACSIMILE (337) 262-9001

OUR FILE NUMBER:
2553.1



March 8, 2006

VIA FACSIMILE (571) 273-8300
AND FIRST CLASS MAIL

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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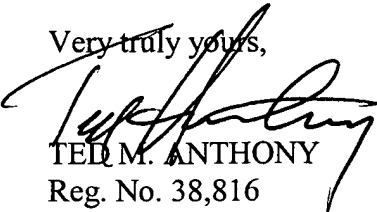
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Thank you very much for your assistance. Should you have any questions, please do not hesitate to contact me.

Very truly yours,


TED M. ANTHONY
Reg. No. 38,816

TMA/jh
Enclosures